

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

In the Matter of:

E. R. VAN DE GRIFT III, D.V.M.
License No.: VET.425

OIE # 2014-2, 2014-29

FORMAL COMPLAINT

Respondent.

IT IS HEREBY ALLEGED THAT:

I.

E.R. Van de Grift III ("Respondent") is a veterinarian who is duly licensed by the State Board of Veterinary Medical Examiners ("the Board"). Respondent's license is currently active.

II.

The Board has personal jurisdiction over Respondent and jurisdiction over the subject matter in this case pursuant to S.C. Code Ann. § 40-69-115 (2006, as amended).

III.

Upon information and belief, Respondent has engaged in conduct that violates provisions of S.C. Code Ann. § 40-69-5, *et seq.* (2006, as amended), including the commission of the following acts:

- A. Respondent has prior disciplinary action with the Board for failure to prepare written records and negligence, which resulted in a Final Order that the Board fully executed on November 14, 2003. Respondent was ordered to pay a civil penalty of Five Hundred Dollars (\$500.00), pay administrative costs of Nine Hundred Ninety-Seven Dollars (\$997.00), and develop a written presentation based on Chapter 14 of James E. Wilson's book Law and Ethics of the Veterinary Profession. A copy of the November 14, 2003, Final Order is attached hereto and incorporated herein by reference as Exhibit #1.
- B. Respondent has prior disciplinary action with the Board for negligence, which resulted in a Consent Agreement that the Board fully executed on March 13, 2006.

Respondent was publicly reprimanded for his actions with a civil penalty of Five Hundred Dollars (\$500.00), payment of administrative costs of Three Hundred Sixty-Three and 20/100 Dollars (\$363.20), twenty (20) hours of continuing education courses with a concentration in surgery, and the development of a written presentation of the negligence involved. A copy of the March 13, 2006, Consent Agreement is attached hereto and incorporated herein by reference as Exhibit #2.

- C. On or around February 21, 2013, Respondent falsified the veterinary record of a cat named Jerry that stated Jerry had been euthanized. Jerry was kept at the veterinary clinic and later adopted by another owner months after the euthanasia was to occur, on or around July 31, 2013.
- D. Respondent knowingly kept and used expired medications.
- E. Respondent smokes in his surgical room, although he contends it does not occur while surgery is ongoing.
- F. Respondent failed to properly sanitize surgical tools between spays on at least one occasion, which resulted in one of the spayed animals becoming infected days later.
- G. On or about June 11, 2014, Respondent failed to properly spay "Rossi," a dog. Respondent failed to obtain Rossi's medical history prior to the procedure. Respondent failed to notify Rossi's owner of the issue when Rossi's owner called twice to inquire about Rossi's condition. Finally, Respondent did not maintain complete records (drug logs) regarding Rossi's medications.

IV.

Respondent has not complied with the codes that govern the practice of veterinary medicine in South Carolina, as evidenced by the following:

- A. Respondent is in violation of S.C. Code Ann. § 40-69-110(A)(1) (2006), in that Respondent violated this chapter or a regulation promulgated by the board; and
- B. Respondent is in violation of S.C. Code Ann. § 40-69-110(A)(6) (2006), in that Respondent used a false or fraudulent statement in a document connected with the practice of veterinary medicine; and
- C. Respondent is in violation of S.C. Code Ann. § 40-69-110(A)(11) (2006), in that Respondent engaged in unprofessional or unethical conduct in violation of the American Veterinary Medical Association Code of professional Ethics or any other standards of professional conduct defined in this chapter or prescribed by regulations of the board; and

- D. Respondent is in violation of S.C. Code Ann. § 40-69-110(A)(12) (2006), in that Respondent engaged in conduct determined by the board to be incompetent or negligent in the practice of veterinary medicine; and
- E. Respondent is in violation of S.C. Code Ann. § 40-69-110(A)(26) (2006), in that Respondent has engaged in a pattern or practice of violations of this chapter or regulations promulgated under this chapter; and
- F. Respondent is in violation of S.C. Code Ann. Regs. § 120-8 (2009), in that Respondent failed to properly document the records of his care of at least one animal.

V.


Pursuant to S.C. Code Ann. §§ 40-1-120, 40-69-110, and 40-69-120 (1976, as amended), the Board has the authority to order the revocation, suspension, or refusal of a license, publicly reprimand the licensee, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board or imposing restraint upon the practice of a licensee.

Additionally, the Board may require the licensee to pay a civil penalty of up to one thousand dollars (\$1,000.00) to the Board for each violation of S.C. Code Ann. § 40-69-110 (2006) pursuant to S.C. Code Ann. § 40-69-120 (2006). Further, pursuant to S.C. Code Ann. § 40-69-170 (2006), should licensee be found in violation of the offenses charged, said licensee may be directed to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case. These costs are to be assessed in addition to any sanction that may be imposed. Further, the Board may seek equitable relief to enjoin violations of the Board's Practice Act pursuant to S.C. Code Ann. §§ 40-1-100 and 40-69-100 (1976, as amended).

WHEREFORE, the Board shall consider these allegations and make such disposition as may be appropriate. You may respond and present evidence and argument on all issues involved. You may appear alone or with counsel. If you fail to appear, the Board may proceed in your absence.

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION
STATE BOARD OF VETERINARY MEDICAL
EXAMINERS**

BY:


ERIN G. BALDWIN
Assistant Disciplinary Counsel

June 12, 2015

EXHIBIT #1

**BEFORE THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS
OF SOUTH CAROLINA**

In the Matter of:

E. R. VAN DE GRIFT, D.V.M.,

License No. ~~1466~~, 425

(2002-50)

Respondent.

FINAL ORDER

This matter came before the State Board of Veterinary Examiners (the Board) for hearing on October 23, 2003, as a result of the Notice of Hearing and Complaint served upon the Respondent and filed with the Board. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. §40-69-150 (1976), as amended, S.C. Code of Regs. No. 120-11.2 of the Rules and Regulations of the Board, and the provisions of the Administrative Procedures Act (the APA), S.C. Code Ann. §1-23-10, et seq., (1976), as amended. The State was represented by Geoffrey R. Bonham, Esquire. The Respondent was represented by H. Wesley Kirkland, Jr., Esquire.

The Respondent was charged with violation of S.C. Code Ann. §40-69-140(1), (11) and (12) (Supp. 2001), and S.C. Code of Regs 120-6.1.B(5), (7) and (8) of the Rules and Regulations of the Board.

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a veterinarian duly licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine in the State of South Carolina, and was so licensed at all times relevant to the issues raised in the Complaint in this matter.

2. The Respondent is the owner of the Van de Grift Animal Clinic located in Columbia, South Carolina. On or about January 2, 2001, the owner of a canine known by the name of Buster took the animal to the Respondent's clinic for a teeth cleaning. The owner took the animal into the Clinic in the morning and picked the animal up in the late afternoon of January 2, 2001. There was conflicting testimony on the animal's condition at the time it was picked up; however, it is undisputed that the owner returned the animal to the Clinic on the following day because the animal was not recovering well from the anesthesia that was administered for the teeth cleaning. The animal remained in the Respondent's care for approximately two to three days, staying overnight at the

Respondent's clinic, before it was again released to the owner. There was no improvement in the animal's condition, and a few days after its release from the Respondent's clinic, the animal was taken to another veterinarian, where it was euthanized. No post-mortem was performed and the cause of the animal's death is unknown.

3. The State presented the testimony of an expert witness who testified that the Respondent's written records with respect to this animal were deficient in that there was no indication in the records of the animal's weight, age or species. He also testified that other pertinent information not included in the records. Additionally, the expert witness testified that it was his opinion that the records did not meet the standard expected of veterinarians practicing in this State, and further, that the records did not meet the requirements set forth as a part of the Board's Practice Act. The Board agrees with the expert's opinion, and the Respondent acknowledged in his testimony that the records were inadequate.

4. The State's expert also expressed an opinion that the Respondent was negligent in the practice of veterinary medicine by not performing a physical examination of the animal prior to the teeth cleaning procedure, by not offering lab work, in not performing or recommending pre-anesthetic blood work, and failing to refer the animal to an overnight facility. However, his opinion with regard to these allegations was based upon the lack of any notations in the written records, and the Respondent in his testimony contradicted most of the testimony with regard to these allegations. Because the State presented no other evidence to corroborate the charges, the Board finds that the State failed to meet its burden of proof. The Board does find from the evidence presented that the animal in question never fully recovered from the anesthetic that was administered for the teeth cleaning procedure. During the time that the Respondent was treating the animal post-surgical, he failed to perform or offer lab work as a means of diagnosing the problem.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. §40-1-110 (1976), as amended, and S.C. Code Ann. §40-69-140 (1976), as amended, has the authority to order the revocation or suspension of a license to practice as a veterinarian, publicly or privately reprimand the holder of a license, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board or imposing restraint upon the practice of the licensee as circumstances warrant until the licensee demonstrates to the Board adequate professional competence. Additionally, the Board may require the licensee to pay a civil penalty of up to five hundred dollars to the Board and the costs of the disciplinary action.

2. The Respondent has violated S.C. Code Ann. §40-69-140(1) (1976), as amended, in that the Respondent violated the following Regulation promulgated by the Board:

A. Regulation No. 120-6.1.B(5), (7) and (8) in that the Respondent failed to prepare or cause to be prepared written records containing a history of the animal, progress notes or other indication of the animal's condition and disposition of the case.

3. The Respondent has violated S.C. Code Ann. §40-69-140(12) (1976), as amended, in that the Respondent was negligent in the practice of veterinary medicine by not offering lab work for an animal suffering from a prolonged anesthetic recovery.

4. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified veterinarians against the countervailing concern that society be protected from professional ineptitude and misconduct.

5. The sanction imposed is designed not to punish the veterinarian, but to protect the life, health, and welfare of the people at large.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The Respondent shall pay a civil penalty in the amount of **Five Hundred and No/100 (\$500.00) Dollars**. This penalty must be paid within sixty (60) days of the date of this final order, and shall not be deemed paid until received by the Board.

2. The Respondent shall, within sixty (60) days of the date of this final order, pay administrative costs incurred in the investigation of prosecution of this disciplinary action, said costs being in the amount of **Nine Hundred Ninety-Seven and No/100 (\$997.00) Dollars**. These costs shall not be deemed paid until received by the Board.

3. The Respondent shall purchase or otherwise obtain a copy of James E. Wilson's book entitled Law and Ethics of the Veterinary Profession. The Respondent shall read Chapter 14, the chapter on record keeping, and shall within thirty (30) days submit to the Board, in proper format, the written records on a surgical case, a medical "sick" case, and a routine vaccination case.

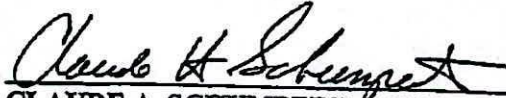
4. It is the Respondent's responsibility to demonstrate compliance with each and every provision of this final order. Failure by the Respondent to abide by any of the provisions of this final order within the time periods set forth herein may warrant the immediate temporary suspension of his license to practice veterinary medicine in this State pending hearing into the matter and until further order of the Board.

5. This final order shall take effect immediately upon service of the order upon the Respondent or Respondent's attorney.

AND IT IS SO ORDERED.

SOUTH CAROLINA BOARD OF VETERINARY
MEDICAL EXAMINERS

BY:



CLAUDE A. SCHUMPERT, D.V.M.

Chairman of the Board

November 14th, 2003.

EXHIBIT #2

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE SOUTH CAROLINA BOARD OF VETERINARY MEDICAL EXAMINERS**

In the Matter of:

**E.R. VAN DE GRIFT, JR., D.V.M.,
License # 425,**

Case No. 2004-15,

Respondent

CONSENT AGREEMENT AND ORDER

By agreement of the State Board of Veterinary Medical Examiners for South Carolina (the Board) and the above-named Respondent, the following disposition of this matter is entered pursuant to the provisions of Section 1-23-320(f) of the 1976 Code of Laws of South Carolina, as amended (S.C. Administrative Procedures Act):

FINDINGS OF FACT

1. Respondent admits that he is authorized to practice veterinary medicine in the State of South Carolina and was so authorized at all times relevant to the matters asserted in this case.
2. Respondent admits that he engaged in the incompetent or negligent practice of veterinary medicine in violation of Section 40-69-140 (12), of the 1976 Code of Laws of South Carolina, as amended, and Regulation No. 120-5.1, in that when he operated on the canine Skye on or about January 25, 2004, he left a 4 x 4 surgical gauze pad in the dog's abdomen.
3. Respondent waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

4. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary or corrective action under Section 40-69-120, *supra*. Respondent hereby waives any further conclusions of law with respect to this matter.
5. Respondent has full knowledge that he has the right to a hearing and to be represented by counsel in this matter, and freely, knowingly, and voluntarily waives such rights by entering into this Consent Agreement. Respondent understands and agrees that by entering into this Consent Agreement he voluntarily relinquishes any right to judicial review of this or any other Board action(s) which may be taken concerning this and any related matters. Respondent understands and agrees that this Consent Agreement will not become effective unless and until approved by the Board. Respondent understands and agrees that a representative of the General Counsel's Office and Respondent may be present during presentation of this Consent Agreement to the Board and that the Board shall have the authority to review portions of the investigative file and all relevant evidence in considering this Consent Agreement. Respondent understands and agrees that this Consent Agreement, if approved, will be


disseminated as a public action of the Board in the manner provided by law. Respondent understands and agrees that if this Consent Agreement is not approved, it shall not constitute an admission against interest in this proceeding or prejudice the right of the Board to adjudicate this matter.

THEREFORE, IT IS AGREED WITH RESPONDENT'S CONSENT THAT:

1. Respondent's authorization to practice veterinary medicine in this State is hereby placed in a probationary status for a period of one (1) year, provided, however, said probationary status is suspended upon Respondent's compliance with the following:
 - (a) Respondent is hereby issued a Public Reprimand.
 - (b) Respondent shall pay a fine of Five Hundred (\$500.00) Dollars to the Board. This fine shall be paid within thirty (30) days from the date of this Agreement. Payment must be in the form of a cashier's check, money order, or other good funds. Failure to pay the said fine shall result in the immediate temporary suspension of the Respondent's license to practice veterinary medicine in this State until such amount is paid in full.
 - (c) Respondent shall also pay administrative costs in this matter in the amount of Three Hundred Sixty-Three and 20/100ths Dollars (\$363.20). Said costs shall be paid within thirty (30) days from the date of this Agreement.
 - (d) Respondent shall be required to take twenty (20) hours of continuing veterinary medical education, in addition to his normal continuing education licensure requirements, with concentration in surgery. This twenty (20) hour requirement shall be completed by April 27, 2006.
 - (e) Respondent shall be required to develop a written presentation of the case that is the subject of this action, from January 2004 forward, showing a more appropriate method of dealing with the post-surgical complications. Respondent should structure this presentation as if the patient had just presented; he should do the patient's chart and records properly and correctly; and he should detail how he would go about the patient's surgery. Respondent shall submit the written presentation to the Board, care of the Board Administrator Donald W. Hayden, by the next Board meeting on April 27, 2006.
 - (e) Respondent shall comply with all state and federal laws, including those governing the practice of veterinary medicine.
 - (f) Respondent shall appear and report to the Board as requested by the Board.
 - (g) Respondent shall promptly advise this Board in writing of any changes in address, practice, hospital privileges, professional status, or compliance with this Consent Agreement. Correspondence and copies of reports and notices mentioned herein shall be directed to:

LLR-Board of Veterinary Medical Examiners

Page 2 of 4



P.O. Box 11329
Columbia, SC 29211-1329

2. It is further understood and agreed that if Respondent fails to abide by any of the aforementioned terms and conditions, or if it should be indicated from reliable reports submitted to the Board that Respondent is otherwise unable to practice with reasonable skill and safety, then Respondent's authorization to practice may be immediately temporarily suspended pending hearing into the matter and until further Order of the Board. It is understood and agreed that by executing this Agreement, Respondent specifically consents to waive the procedural requirements of Section 40-69-150 and Regulation 120-11.3. It is understood and agreed that by executing this Agreement, Respondent specifically consents to consideration by the Board of any appropriate sanction under Section 40-69-120 after the hearing required by this paragraph.
3. Pursuant to the South Carolina Freedom of Information Act, this Consent Agreement is a public document.
4. It is further understood and agreed that this Consent Agreement does not satisfy, prejudice, or stay any disciplinary action currently pending before the Board or which may be filed in the future.
5. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in the investigation of Respondent's practice and compliance with the provisions of this Consent Agreement. Respondent may be required to furnish the Board with additional information as may be deemed necessary by the Board or its representatives. In addition to such requests, the Board in its discretion may require Respondent to submit further documentation regarding Respondent's practice, and it is Respondent's responsibility to fully comply with all reasonable requests in a timely fashion. Failure to reasonably comply with such requests will be deemed a violation of this Consent Agreement.
6. This Consent Agreement shall take effect the date it is signed by the Chairman of the Board.

AND IT IS SO AGREED AND ORDERED.

Effective: 3/13/06
Date

STATE BOARD OF VETERINARY MEDICAL
EXAMINERS

By: James T. Mullikin, D.V.M.
JAMES T. MULLIKIN, D.V.M.
Chairman of the Board

WE CONSENT:

E.R. Van De Grift Jr. ⁷¹¹ 3-5-06
E.R. VAN DE GRIFT JR., D.V.M. Date
Respondent

H. Wesley Kirkland Jr. 3/3/06
H. WESLEY KIRKLAND JR., Date
Attorney for the Respondent

Cornelius J. Riley 3-7-06
~~CORNELIUS J. RILEY~~ ^{Marvin G. FRIED} Date
Assoc. Assistant General Counsel for
the S.C. Department of Labor,
Licensing and Regulation